IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE**

**and**
**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**WRIT APPEAL NOS: 1539 & 1540 of 2004**

**Writ Appeal No.1539 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/09/2004 in WP No: 16184 of 2004 on the file of the High Court.)

Between:

1 M/s Sri Venkateswara & Nataraj Granites, rep. by its

Managing Partner Sri Gadde Babu Rao

S/o Late Venkataratnam, R/o Cheepurupalli,

Vizianagaram District.

2 M/s Sri Nataraj Enterprises Granites, rep. by its Managing

Partner Sri Gadde Babu Rao, S/o Late Venkataratnam,

R/o Cheepurupalli, Vizianagaram District.

**..... APPELLANTS**

AND

1 The Government of Andhra Pradesh, rep. by its Secretary,
Industries and Commerce Department, Secretariat,

Hyderabad.
2 The Director, Mines & Geology, BRKR Bhavan,

8th Floor, Tank Bund Road, Hyderabad.

3 The Asst. Director of Mines & Geology, Tekkali, Srikakulam

District.

4 M/s M.S.P. Granites, rep. by its Prop. M.S. Palanivelu

S/o Sabapathy, R/o H.No.1-342, Rotary Nagar, Tekkali,

Srikakulam District.

**.....RESPONDENTS**

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**WRIT APPEAL No: 1540 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 28/09/2004 in WP No: 16111 of 2004 on the file of the High Court.)

Between:

M/s.Sri Nataraj Enterprises Granites, rep., by its Managing

Partner Sri Gadde Babu Rao, s/o late Venkataratnam,

r/o Cheepurupalli, Vizianagaram District.

**..... APPELLANT**

AND

1 The Government of Andhra Pradesh rep., by its Secretary,

Industries & Commerce Department, Secretariat,

Hyderabad.

2 The Director, Mines & Geology, BRKR Bhavan, 8th Floor,
Tank Bund Road, Hyderabad.

3 The Assistant Director of Mines & Geology, Tekkali,

Srikakulam District.

4 M/s. M.S.P. Granites, rep., by its Prop.M.S. Palanivelu,

s/o Sabapathy, r/o H.No.1-342, Rotary Nagar, Takkali,

Srikakulam District.

**....RESPONDENTS**

**Counsel for the Appellants: Mr. M.V.S.SURESH KUMAR**

**(in both the appeals)**

**Counsel for Respondent Nos. 1 to 3: G.P For Mines And Geology (in both the appeals)**

**Counsel for Respondent No.4: Smt. N. Shoba**

**(in both the appeals)**

**The Court made the following :**

**ORAL COMMON JUDGMENT:**

**(per The Honourable Sri Devinder Gupta, the Chief Justice)**

We have heard the learned counsel for the appellants and gone through the order passed by the learned Single Judge dismissing two Writ Petitions by common order. Learned Single Judge noticed the fact that there are applications for quarry lease pending and there are number of applicants including the writ appellants as also the fourth respondent besides others. While the said applications are pending consideration, orders have been passed on 3.9.2004 by the Director of Mines and Geology, Hyderabad granting prospective lease to the 4th respondent under Rule 12(5)(xi) of the Andhra Pradesh Minor Mineral Concessional Rules, 1966 for a period of two years subject to conditions mentioned in the appendix enclosed to the order and other terms and conditions under Granite Conservation and Development Rules, 1999 and subsequent government orders and executive instructions. This

grant of prospective lease for two years was also subject to outcome of court cases and revision orders pending before the Government in respect of other cases pertaining to the fourth respondent-company and subject to condition that prospective licence is liable to be cancelled without any notice. The appellants also applied for prospective licence, but, only after similar applications had been made by the fourth respondent.

The grievance of the appellants was that grant of prospective licence by the order impugned in the writ petitions was at the behest of the State Government whereas the Direction of Mines and Geology had greater role to play and had to grant independently and the said order is vitiated as the very order stated that Government vide proceedings dated: 31.8.2004 directed for grant of prospective lease for a period of two years to fourth respondent, and, the other ground of challenge was the feasibility of respondent No.4 being granted such prospective licence because of bar contained in Rule 12(5)(d) of the Rules.

Detailed counter-affidavit has been filed by Respondent No.4 and original record was made available by the Director of Mines and Geology before the learned Single Judge and the learned Single Judge concluded that there was no such direction as is issued in the proceedings dated: 31.8.2004, but, it was only an intimation to the Director for considering the request for grant of prospective lease to the 4$^{th}$ respondent pending number of court proceedings and pending consideration of the question as regards priority of the application for grant of quarry leases. Learned Single Judge considered the question as to whether Respondent No.4 had incurred any disqualification for being considered for grant of prospective licence, and in view of the directions given in various cases, it was held that the same does not come in the way of consideration of the application of the 4$^{th}$ respondent for grant of lease and even the 4$^{th}$ respondent has furnished bank guarantee for the amount of alleged demand for grant of dispatch permits. Since the matter has been duly considered by the learned Single Judge in right perspective, we see no reason in the appeals to interfere in the orders passed by the learned Single Judge, by which, no interference was made in the grant of prospective licence to the 4$^{th}$ respondent. The Writ Appeals, therefore, are dismissed. No costs.

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DEVINDER GUPTA, C.J.

5.10.2004.

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C.V.RAMULU, J.

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To

1. The Secretary, Government of Andhra Pradesh,

Industries & Commerce Department, Secretariat,

Hyderabad.
2. The Director, Mines & Geology, BRKR Bhavan, 8th Floor,
Tank Bund Road, Hyderabad.
3. The Assistant Director of Mines & Geology, Tekkali,

Srikakulam District.

4 Two CCs to Govt. Pleader for Mines & Geology, High Court

Buildings, Hyderabad (OUT).

5. Two CD copies.